

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KELEIGH OXENDINE,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	
)	
JAMES WILDENBURG,)	[On removal from the State Court of
)	Dekalb County, Georgia;
Defendant.)	Civil Action No. 23A02191]

NOTICE OF REMOVAL

COMES NOW JAMES WILDENBURG (hereinafter “Defendant”), Defendant in the above-styled action, and within the time prescribed by law, files this Notice of Removal, respectfully showing the Court the following facts:

1.

Plaintiff KELEIGH OXENDINE (hereinafter “Plaintiff”) filed suit against Defendant in the State Court of Dekalb County, which is a county within the Atlanta Division of this Court. This suit is styled above and numbered Civil Action File No. 23A02191 in that Court.

2.

Defendant shows that said suit was initiated on May 17, 2023, in the State Court of Dekalb County. Defendant acknowledged service of process on May 24, 2023. Defendant shows that this Notice of Removal is filed within thirty (30) days from the date of service of said suit on Defendant. Therefore, removal is timely pursuant to 28 U.S.C. § 1446(b).

3.

Plaintiff is a citizen of Georgia.

4.

Defendant is a citizen of Florida, as he has a Florida Driver's license, is registered to vote in Florida, and has a primary residence in Florida. See, Wildenburg Aff., attached hereto as **Exhibit A**. Defendant is not a citizen of Georgia. Defendant was not a citizen of Georgia on the date of filing this action and has not been thereafter.

5.

Complete diversity exists between Plaintiff and Defendant in accordance with 28 U.S.C. § 1332(a)(1).

6.

This action is a civil action between citizens of different state where the controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Plaintiff expressly alleges in her Complaint that she is entitled to all damages to her Property and any resulting expenses and temporary repairs, as well as bad faith damages and attorney's fees and costs. See, Complaint ¶ 16. Given the statements of Plaintiff regarding the value of her claim and the amount she contends she is entitled to recover, the amount in dispute in this matter will exceed the jurisdictional requirement of \$75,000.00.

7.

Plaintiff expressly states in her Complaint that she is seeking damages in an amount excess of \$135,000.00 as to past, present, and future medical expenses. See Complaint, ¶16. Plaintiff also intends on seeking other special and general damages, including but not limited to consequential damages, mental anguish, loss of the capacity for the enjoyment of life, pain and suffering, etc. Id.

8.

In light of the foregoing, the amount in controversy for this matter exceeds the jurisdictional requirement for removal of \$75,000.00.

9.

This case is a civil action that may be removed to this Court pursuant to 28 U.S.C. § 1441. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) and (b) as there is complete diversity of citizenship between Plaintiff and Defendant and, as shown above, the amount in controversy exceeds \$75,000.00. Further, as required by 28 U.S.C. § 1441(b), Defendant is not a citizen of the State of Georgia.

10.

Defendant has attached hereto copies of all process, pleadings, and orders served upon it in this case prior to the date of this Notice of Removal. Such copies are attached hereto as **Exhibit B**.

11.

Defendant has given written notice of the filing of this Notice of Removal to Plaintiff by notifying her attorneys of record, Peter A. Law, Esq; E. Michael Moran; and Denise D. Hoying of the Law & Moran, which is located at 563 Spring Street, Atlanta, Georgia 30308. Additionally notified is Plaintiff's other attorney of record Joseph A. Zdrilich, Esq., of Zdrilich Injury Law, LLC, which is located at 3575 Kroger Boulevard, Suite 125, Duluth, Georgia 30096. Defendant has also filed a

written notice with the State Court of Dekalb County, a copy of said notice being attached hereto and made in part hereof.

WHEREFORE, Defendant JAMES WILDENBURG prays that this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 23rd day of June, 2023.

Respectfully submitted,

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/ **Pamela Lee**

Pamela Newsom Lee

Georgia Bar No. 198981

Christopher S. Antoci

Georgia State Bar No. 466679

Attorneys for Defendant

1420 Peachtree Street, N.E., Suite 800

Atlanta, Georgia 30309

404-874-8800(ph)

404-888-6199 (fax)

Pamela.lee@swiftcurrie.com

christopher.antoci@swiftcurrie.com

CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D) of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to LR 5.1(C).

This 23rd day of June 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Pamela N. Lee

By:

Pamela Newsom Lee
Georgia State Bar No. 198981
Christopher S. Antoci
Georgia State Bar No. 466679
Attorneys for Defendant

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309-3231
Telephone: (404) 874-8800
Facsimile: (404) 888-6199
Pamela.lee@swiftcurrie.com
Christopher.antoci@swiftcurrie.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing *Defendant's Notice of Filing Removal* upon all parties to this matter via electronic E-file service addressed to counsel of record as follows:

Peter A. Law
E. Michael Moran
Denise D. Hoying
Law & Moran
563 Spring Street
Atlanta, Georgia 30308
pete@lawmoran.com
mike@lawmoran.com
denise@lawmoran.com

Joseph A. Zdrilich
Zdrilich Injury Law, LLC
3575 Koger Boulevard, Suite 125
Duluth, Georgia 30096

This 23rd day of June 2023.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/ Pamela Lee
Pamela Newsom Lee
Georgia Bar No. 198981
Christopher S. Antoci
Georgia State Bar No. 466679
Attorneys for Defendant

1420 Peachtree Street, N.E., Suite 800
Atlanta, Georgia 30309
404-874-8800(ph)
404-888-6199 (fax)
Pamela.lee@swiftcurrie.com
christopher.antoci@swiftcurrie.com